

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

AMERICA FIRST ENTERPRISES LLP d/b/a
Oliver Outdoor,

CIVIL DIVISION

Appellant,

No: SA-19-438

v.

ZONING HEARING BOARD OF THE
BOROUGH OF TARENTUM,
PENNSYLVANIA,

**NOTICE OF APPEAL OF LAND USE
DECISION**

Appellee.

Filed on behalf of Appellant,
**America First Enterprises, LLP d/b/a Oliver
Outdoor**

Counsel of Record for this Party:

Maureen E. Sweeney, Esquire
PA I.D. #70497

Brittany M. Bloam, Esquire
PA I.D. # 311541

BLUMLING & GUSKY, LLP
Firm #458

1200 Koppers Building

436 7th Avenue

Pittsburgh, PA 15219

(412) 227-2500

APELLEE:

Solicitor:

Gerald G. DeAngelis, Esq.

Borough of Tarentum

Zoning Hearing Board

512 Market St

Freeport, PA 16229-1245

DEPT OF COURT RECORDS
ALLEGHENY COUNTY DIVISION
ALLEGHENY COUNTY PA
2019 JUN 27 PM 3:28
FILED

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

AMERICA FIRST ENTERPRISES LLP d/b/a)
OLIVER OUTDOOR,)
)
Appellant,) No:
)
v.)
)
ZONING HEARING BOARD OF)
BOROUGH OF TARENTUM,)
PENNSYLVANIA,)
)
Appellee.)

NOTICE OF APPEAL OF LAND USE DECISION

Appellant, America First Enterprises LLP, d/b/a Oliver Outdoor, and incorrectly designated below as American First Enterprises (hereinafter referred to as “Oliver Outdoor” or “Appellant”), by and through its undersigned counsel, hereby files the within Appeal pursuant to 53 P.S. § 11001-A, et seq., from the June 10, 2019 written decision of the Tarentum Borough Zoning Hearing Board, denying its appeal from the determination of the Borough Zoning Officer, as follows:

1. Appellant is an equitable owner of an easement in a certain parcel of property located at 107 E. Fourth Street in the Borough of Tarentum, Allegheny County, Pennsylvania (hereinafter referred to as the “Property”).

2. Appellee is the Zoning Hearing Board for the Borough of Tarentum, Allegheny County, Pennsylvania, with a business office located at 318 E. Second Ave, Tarentum, Pennsylvania 15084 (hereinafter referred to as “Appellee”, “Board” or the “ZHB”).

3. As indicated on the Borough’s official Zoning Map (“Zoning Map”), attached in the Borough’s official Zoning Ordinance (“Zoning Ordinance”), the Property is in the

Commercial Center or CC zoning district for the Borough of Tarentum. A copy of the Zoning Map is attached as **Exhibit 1**.

4. On May 29, 2019, the ZHB voted to deny Appellant Oliver Outdoor's appeal of a determination of the Zoning Officer to deny its Application for a Permit for an illuminated pole sign with two faces. A copy of a June 10, 2019 letter from the ZHB (the "ZHB Decision"), transmitting to Appellant Oliver Outdoor the so-called "Conclusions of Zoning Hearing Board" following the May 29, 2019 vote, is attached as **Exhibit 2**; a copy of the underlying Denial by the Zoning Officer is attached as **Exhibit 3**.

5. To date, the ZHB has not issued or served upon Appellant any Findings of Fact or Conclusions of Law in accordance with Section 908 of the Pennsylvania Municipalities Planning Code ("MPC"), but in light of the written document as the ZHB Decision served upon Appellant on June 10, 2019, Appellant has no choice but to file this Appeal in order to preserve its rights under the MPC.¹

6. The Denial had asserted that billboards are not a permitted use or conditional use in the CC zoning district.

7. Appellant then filed an appeal to the ZHB with regards to Denial, asserting that the permit should have been granted, given the numerous errors and contradictions within the Zoning Ordinance, which effectively prohibit billboards under the current ordinance's form. See **Exhibit 4**, Application/Appeal to ZHB.

8. At the hearing before the ZHB on May 29, 2019, Oliver Outdoor duly provided evidence about the inherent conflicts and contradictions throughout the Zoning Ordinance regarding billboards.

¹ Appellant further reserves its right to appeal/object to any subsequently issued Findings of Fact and Conclusions of law which may be subsequently issued by the ZHB in this matter.

9. Appellant submitted evidence to the ZHB establishing that, the Zoning Ordinance authorizes the following base zoning districts:

- (a) Commercial Center, CC;
- (b) Highway Commercial and Manufacturing District, HC-M;
- (c) Mixed Density Residential District, R-2;
- (d) Single Family Residential District R-1;
- (e) Public District, P-1; and
- (f) Roadway Commercial District, RC.

See, Section 265-401, "Authorization of Districts," attached hereto as **Exhibit 5**.

10. Section 265-401 also enumerates certain overlay districts which are authorized, namely: a) RFO Riverfront Overlay, and b) Floodplain District; but **no other zoning districts or overlay districts are authorized under Section 265-401.**

11. "Billboard" is defined by the Zoning Ordinance as "A sign, upon which advertising matter of any character is printed, posted or lettered, which is erected upon a property bearing no establishment or principal building." Section 265-202, Definitions.

12. Appellant further submitted evidence and testimony that, of the zoning districts expressly authorized by Section 265-401 of the Zoning Ordinance, only the RC Roadway Commercial District permits the use of a billboard as a permitted use; this would be a permitted use, not a conditional use, in that district. Section 265-409, attached hereto as **Exhibit 6**.

13. However, a review of the official zoning map attached to the Zoning Ordinance shows that **there is no property in fact zoned in the RC or Roadway Commercial District;** indeed, the RC district cannot be found anywhere on the official Zoning Map. See, Exhibit 1.

14. Later in the Zoning Ordinance, under the provisions dealing with Specific Conditional Use Standards, Section 265-402(B) states that "billboards are authorized as a

conditional use as follows in the C-3 heavy commercial district on otherwise vacant parcels of land.....” A copy of Section 265-402(B) is attached as Exhibit 7 (Emphasis added).

15. **The Zoning Ordinance, however, does not have an authorized zoning district of C-3, nor does the Zoning Map show that district, or any property being zoning C-3.** See Exhibit 1.

16. Later in the Zoning Ordinance, under Article VII for Signs, General Standards, Section 265-702(I) states “Billboards, as defined, shall be permitted in the RRO Rural Resource Overlay District. (See Section 265-406, Subsection F.)” A copy of Section 265-702(I) is attached as Exhibit 8.

17. **But there is no Section 265-406, Subsection F, nor are there any regulations in the Zoning Ordinance for the so-called” RRO Rural Resource District.”** A copy of Section 265-406 is attached as Exhibit 9.

18. While the Zoning Map attached to the official Zoning Ordinance does appear to indicate an additional overlay district called the “RRO Rural Resource (sic) Overlay” within the R-1 Single Family Residential District, **this alleged RRO Rural Resource Overlay District is not authorized by Section 265-401, and the Zoning Ordinance does not contain any regulations regarding this District,** other than the sole stray reference to it in the Sign Regulations in Section 265-702(I) (which in turn refers to a regulation Section 265-406(F), which does not exist). See Exhibit 1, 5, 8 and 9.

19. Thus, under the current Zoning Ordinance, there is, in fact, no property in the Borough which is authorized for the use of billboards (illuminated or otherwise).

20. A de facto exclusion exists where an ordinance permits a use on its face, but when applied, acts to prohibit the use throughout the municipality. See, e.g., Macioce v. Zoning Hearing Board of Borough of Baldwin, 850 A.2d 882, 887 (Pa.Comm. 2004).

21. The current zoning Ordinance is de facto exclusionary regarding the use of billboards.

22. Since “billboards are not objectionable per se, a blanket prohibition on billboards without justification cannot pass constitutional muster.” Township of Exeter v. Zoning Hearing Board, 599 Pa. 568, 962 A.2d 653 (2009).

23. Here, there is no property in any authorized district which is permitted the use of a billboard: the sole authorized district is the RC District, but there is no property actually zoned in the RC District, as per the official Zoning Map.

24. There is absolutely no evidence in the record from the Borough or other objector, showing that such an exclusion bears a substantial relationship to the public health, safety, morality or welfare.

25. The Zoning Ordinance, with its de facto exclusion of the use of billboards, is invalid and unconstitutional.

26. It was an error of law for the Board not to find a de facto exclusion of billboards under the Zoning Ordinance, which was indeed well within its “authority.”

27. Given this improper exclusion of a legitimate use, the “sole remedy is to allow the use somewhere in the municipality and equity dictates that this opportunity fall to the successful litigant.” Lamar Advertising of Penn, LLC v. Zoning Hearing Board of the Borough of Deer Lake, 915 A.2d 705, 710 (Pa. Commw. 2007).

28. The conclusions in the Zoning Officer’s Denial are erroneous, inaccurate, and should be overruled.

29. Likewise, the conclusions in the ZHB Decision are erroneous, inaccurate, and should be overruled.

30. Notwithstanding the evidence showing the de facto exclusion of the billboard use under the current Zoning Ordinance, the ZHB erroneously held that use was not permitted, and improperly denied Appellant's appeal and request for relief.

31. The ZHB Decision with respect to the Appeal of the underlying Denial by the Zoning Officer, is not supported by substantial evidence, was erroneous, constitutes an abuse of discretion and is contrary to law.

32. The ZHB erroneously applied the standards for a use or dimensional variance to the instant appeal in paragraph 13 of the Decision, such that the ZHB Decision was not supported by substantial evidence, was erroneous, constitutes an abuse of discretion and is contrary to law.

33. The ZHB erroneously applied the standards for a special exception to the instant appeal in paragraph 14 of the Decision, such that the ZHB Decision was not supported by substantial evidence, was erroneous, constitutes an abuse of discretion and is contrary to law.

34. The ZHB Decision's holding in paragraph 15 that "it had no authority to grant" the requested relief on the Application, was erroneous, inaccurate, an abuse of discretion, and should be overruled.

35. Further, to the extent the ZHB Decision relied upon alleged prior decisions in prior hearings in 2016, no evidence of which were before the ZHB and also were entirely irrelevant, the instant ZHB Decision was erroneous, inaccurate, an abuse of discretion, arbitrary and capricious.

36. The ZHB Decision erroneously failed to find the Zoning Ordinance was de facto exclusionary, despite the evidence showing the internal contradictions and holes in the Zoning Ordinance and Zoning Map, such that there is no property in the Borough zoned in an authorized district for such a use.

37. The ZHB's denial of the instant Appeal is arbitrary, capricious and without support in law or fact.

38. The ZHB Decision is not supported by substantial evidence, constitutes an abuse of discretion, and is contrary to law.

39. The ZHB Decision fails to comply with the requirements of Section 908 of the MPC.

40. Appellant appeals the decision of the Tarentum ZHB for each of the following additional reasons.

41. Appellant's protected financial, property and due process rights were substantially and materially affected by the Tarentum ZHB's decision.

42. Statements, actions and decisions by the Tarentum ZHB and the Zoning Officer in connection with Appellant's use of this Property violated Appellant's constitutional and due process rights afforded Appellant by virtue of the United States and Pennsylvania Constitutions.

43. The Tarentum ZHB's May 29, 2019 Decision was arbitrary, capricious, and discriminatory.

44. The Tarentum Borough Zoning Ordinance, in whole or in part, is unconstitutional and invalid.

45. The Tarentum Borough Zoning Ordinance is substantively invalid, in that it does not permit the use of billboards anywhere in the Borough and is therefore de facto exclusionary.

46. The Borough failed to provide any evidence that such an exclusion has a substantial relationship with public health, safety, morality or general welfare.

47. Pursuant to Section 603.1 of the Pennsylvania Municipalities Planning Code, any doubt in the interpretation of any restriction of a zoning ordinance shall be interpreted in favor of the property owner and against any implied extension of the restriction, 53 P.S. §10603.1.

48. Appellant is entitled to site-specific relief from the Court under Section 1006-A of the MPC. Adams Outdoor Advertising v. Hanover Township Zoning Hearing Board, 633 A.2d 240 (Pa. Commw. 1992) (where there was a de facto exclusion of billboards in zoning, and township failed to produce evidence that would show the proposed sign would be injurious to the public health, safety and welfare of its citizens, court should have ordered township to issue sign permit as requested by appellant).

49. The Tarentum Borough Zoning Ordinance is impermissibly ambiguous, vague, contradictory, incapable of objective criteria and violative of the United States and Pennsylvania Constitutions.

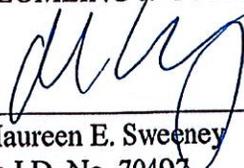
50. Appellant challenges the validity of the Tarentum Borough Zoning Ordinance on the basis that it is exclusionary, impermissibly vague, contradictory, incapable of objective criteria and violative of the United States and Pennsylvania Constitutions and the MPC.

WHEREFORE, Appellant America First Enterprises LLP d/b/a Oliver Outdoor respectfully requests that this Honorable Court sustain their appeal, vacate the decision of the Zoning Hearing Board for the Borough of Tarentum, and further direct the Tarentum officials to issue a permit as outlined on the Application as site specific relief, authorized by Section 1006-A of the MPC.

Respectfully submitted,

BLUMLING & GUSKY LLP

By: _____


Maureen E. Sweeney
Pa I.D. No. 70497
1200 Koppers Building
436 7th Ave
Pittsburgh, PA 15219
412-227-2500

Counsel for Appellant,
America First Enterprises, LLP d/b/a Oliver
Outdoor

Zoning Map

Tarentum Borough, Allegheny County

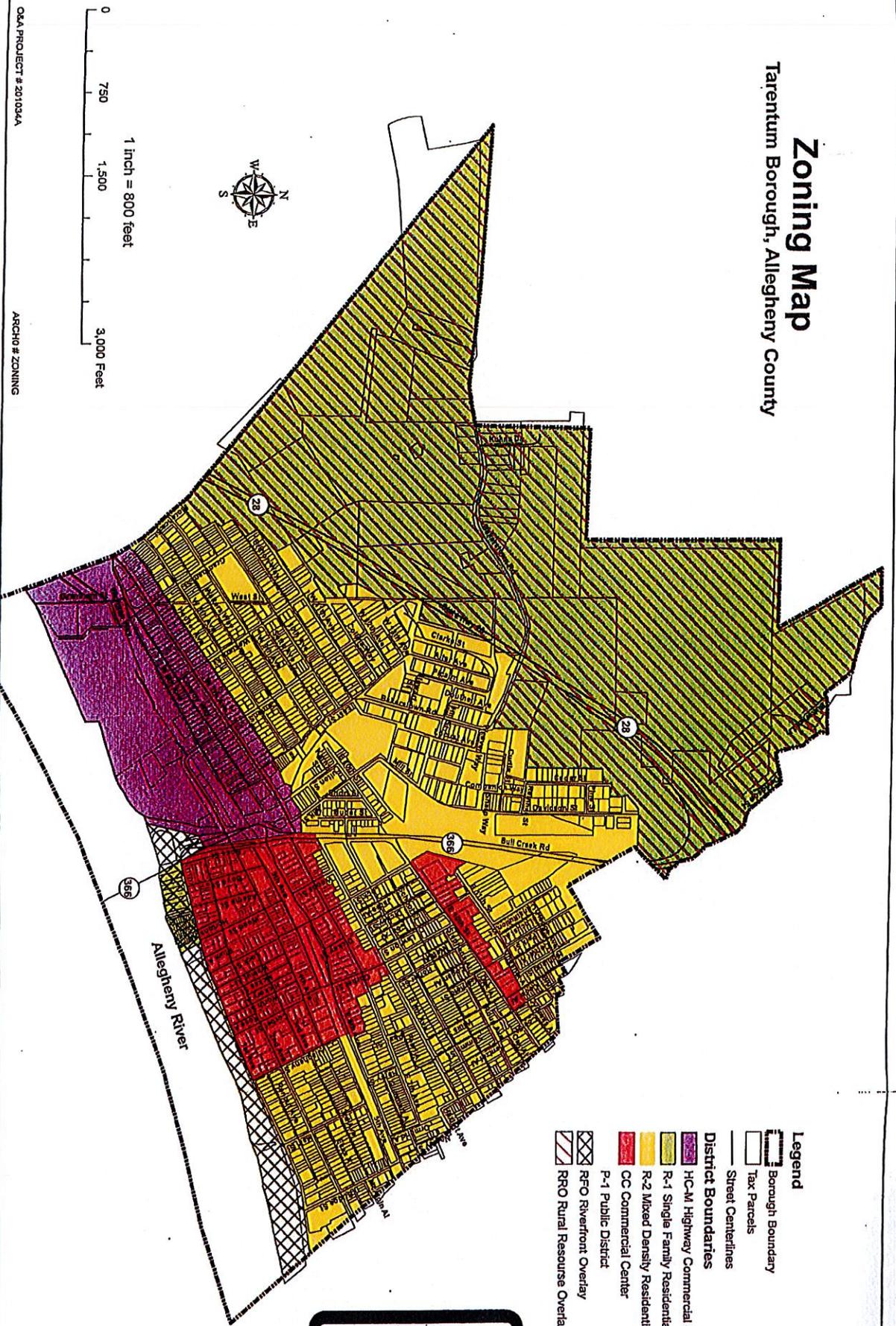


EXHIBIT
7

O&A PROJECT # 201034A

ARCHG # ZONING



ZONING HEARING BOARD
BOROUGH OF TARENTUM, PENNSYLVANIA

IN RE: Application of American First Enterprises, LLP d/b/a Oliver Outdoor

CONCLUSIONS OF ZONING HEARING BOARD

1. A Zoning Hearing Board hearing was held on May 29, 2019 at 6:30 P.M. in Council Chambers of Tarentum Borough.
2. Notice of the hearing was duly advertised and property involved was duly posted.
3. All witnesses were sworn in.
4. The applicant appealed the decision of the Code Enforcement Officer denying approval of a two-side digital billboard located in the Commercial Center (CC) Zone.
5. The application states the site is located within an easement granted by the property owner.
6. The owner of the property did not sign the application and did not participate in the hearing.
7. The Applicant did not present any proof that it does in fact have an easement.
8. When questioned by the Solicitor for the Zoning Hearing Board as to Applicant's authority to proceed, Applicant responded by stating it would email the easement to the Board's Solicitor.
9. The record was kept open solely for the purpose of the Applicant establishing the existence of the easement, which the Applicant did in fact establish.
10. The proposed 2-sided digital billboard is to be approximately 5 feet adjacent to the Tarentum Bridge roadway, be placed about 10 feet above the road and be 14 feet high and 48 feet wide, a total of 672 square feet on each side.



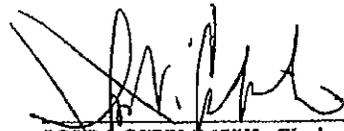
11. Illuminated billboards are not permitted in the CC Zone and are permitted only in certain overlay districts.

12. After a hearing on November 29, 2016 the Zoning Hearing Board denied an appeal of two other applications for illuminated double sided billboards at the same location. In one case the faces were to be 400 square feet, and in the other case the faces were to be 338 square feet.

13. The Zoning Hearing Board can grant a variance only when and if the Findings of Fact are supported by 5 circumstances as outlined in Section 265-1404 of the Zoning Ordinance. None of those conditions are supported by the findings.

14. The Zoning Hearing Board may consider a special exception to the Ordinance if supported by 5 criteria as outlined in Section 265-1405 of the Ordinance. None of the criteria was established at the hearing.

15. The Zoning Hearing Board by roll call vote unanimously denied the application since it had no authority to grant same.



JOHN CIESLINSKI, Chairman
Tarentum Zoning Hearing Board



GERALD G. DeANGELIS, Solicitor
Tarentum Zoning Hearing Board



BOROUGH OF TARENTUM

318 Second Avenue
TARENTUM, PENNSYLVANIA 15084

Telephone: 724-224-1818
Fax: 724-224-1821
www.tarentumboro.com

January 25, 2019

Mr. Jerry Oliver
Oliver Outdoor
1768 North Main St. Ext., Ste. 4
Butler, PA 16001

RE: Application for Building Permit/Zoning at 107 E. 4th Ave. (Parcel ID: 1223-R-26)

Free Standing Signage

Dear Mr. Oliver,

Be advised that a Building Permit cannot be issued based on your existing proposal. To do so would be in violation of the Borough of Tarentum Zoning Ordinance as follows:

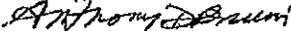
Section 265-402 Commercial Center (CC)

Section 265-202 General Definitions, Billboard

The proposed pole sign fits the definition of a Billboard as defined in section 265-202 and billboards are not permitted in the Commercial Center (CC) Zoning District, section 265-402, where the proposed site is located.

If you wish to appeal my decision you may do so by making application to the Zoning Hearing Board.

Sincerely,


Anthony D. Bruni

Code Enforcement and Zoning Officer

Borough of Tarentum





BOROUGH OF TARENTUM

OFFICE OF BUILDING AND ZONING
318 E. SECOND AVENUE
TARENTUM, PENNSYLVANIA 16084
724.244.1818

ZONING REQUEST APPLICATION

Date: <u>1/3/19</u>
Property Owner: <u>American First Enterprises, LLC, d/b/a Oliver Outdoor</u>
Property Address: <u>107 East 4th Avenue</u> Parcel ID: <u>1223-R-26</u>
Applicant Name: <u>American First Enterprises, LLC, d/b/a Oliver Outdoor</u>
Applicant Address: <u>1768 N. Main Street Extension, Suite 4, Butler, PA 16001</u> <small>(No P.O. Box Allowed)</small>
Applicant Phone #: <u>(724) 496-2222</u> Email: <u>jeromeoliver@icloud.com</u>

Proposed Use: <u>sign</u> <small>(i.e. New Construction, Addition, Pool, Fence, Shed, Car Port, Etc.)</small>
Brief Description: <u>pole sign with two LED faces located within easement granted by owner; single 48"-diameter pole at ground level, two 48" faces at elevation; easement area 3240.93 SF</u>

APPLICATION CERTIFICATION

I hereby certify that I am the owner of the above-named property or that I have the authorization by the owner to make application as the authorized agent. I hereby certify that the information contained in this application is true and correct to the best of my knowledge, information and belief. I agree to conform to the Ordinance(s) relating to this registration.

[Signature]
Signature

1/3/19
Date

FOR INTERNAL USE ONLY

Permit Fee: <u>\$4,082.00</u>	Date Paid: <u>1-3-19</u>	Check Number: <u>RECVPT # 75493</u>
Zoning Request Denial Date: <u>1-22-19</u>	Reason for denial:	
Do setbacks comply?: Yes <input type="checkbox"/> No <input type="checkbox"/>	<u>ZONING ORDINANCE 265-402</u> <u>SUBSECTIONS C/D. NOT A</u> <u>PERMITTED OR CONDITIONAL USE</u>	
Is this a Permitted Use?: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Is this a Conditional Use? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Can building permit be issued? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
PC approval necessary?: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Eligible for appeal to ZHB?: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Date Approved: _____	Zoning Officer (Signature): <u>[Signature]</u>

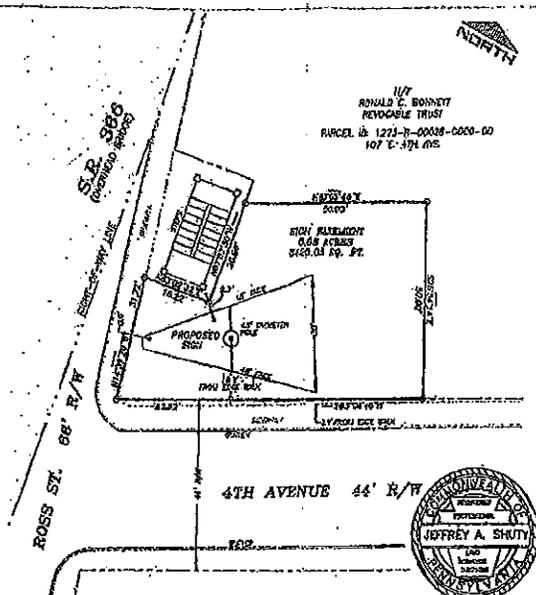
RECEIVED 1-10-19 AEB



BOROUGH OF TARENTUM

PROPERTY DRAWING

In the space below, please provide a sketch of the proposed structure or use including all relevant details and information. Please include the following: Sketch of your property boundary lines; Depiction of all existing and proposed structures; Distance (in feet) from the proposed structure to all property lines (front, rear, sides), primary facility and any other accessory structures.



Area of Proposed Addition	(a)	n/a	sq. ft.
Area of Existing Buildings	(b)	n/a	sq. ft.
Total Lot Area Covered (a + b)	(c)	7	sq. ft.
Total Lot Area	(d)	3421	sq. ft.
Percentage of Lot Area Covered (c + d)	(e)	0.2%	sq. ft.
Is a driveway entrance anticipated from the street?	Yes	No	X

APPLICATION CERTIFICATION

I hereby certify that I am the owner of the above-named property or that I have the authorization by the owner to make application as the authorized agent. I hereby certify that the information contained in this application is true and correct to the best of my knowledge, information and belief. I agree to conform to the Ordinance(s) relating to this registration.

Jeffrey A. Shuty
Signature

1/3/19
Date

FOR INTERNAL USE ONLY

It is approved: <input checked="" type="checkbox"/> If denied, provide comment and/or instructions:	Code Officer Signature:
	Date:



BOROUGH OF TARENTUM

OFFICE OF BUILDING AND ZONING
318 E. SECOND AVENUE
TARENTUM, PENNSYLVANIA 15084
724.244.1818

Apply online at
tarentumboro.com/permitting

BUILDING PERMIT APPLICATION

Date: 1/3/19

Property Address: 107 East 4th Avenue Parcel ID: 1223-R-26

Applicant Name: American First Enterprises, LLC, d/b/a Oliver Outdoor

Applicant Address: 1768 N. Main Street Extension, Suite 4, Butler, PA 16001
(No P.O. Box Allowed)

Applicant Phone #: (724) 496-2222 Email: jeromeoliver@icloud.com

Proposed Use: sign
(i.e. New Construction, Addition, Pool, Fence, Shed, Car Port, Etc.)

Brief Description: pole sign with two LED faces located within easement granted by owner; single 48"-diameter pole at ground level, two 48' faces at elevation; easement area 3240.93 SF

Dimensions: 7 SF* 82' Value of Construction: \$
(Area) *at ground level (Height)

Easements/Restrictions/Environment	Yes	No	Unsure
Does your property contain easements of any kind?	X		
Do you have any utility poles on your property?	X		
Do you have a ditch, stream or wet land on your property?		X	
Do you have underground utilities on your property?			X
Does your property contain any deed restrictions?			X
Is the property located in a flood zone or wetland?			X

If the subject property has previously been granted any type of variance, special exception, and/or other form of relief, please provide the information in the space provided below. Please be specific as to the date of any Zoning Hearings for the property including a photocopy of any deed, recorded plan, agreement, will, covenant, and/or any Zoning Hearing Board decision which contains said restriction, variances, and/or special exceptions which affect the subject property.

FOR INTERNAL USE ONLY

Permit Fee:	Date Paid:	Check Number:

DATE 1-3-19

FUND

No. 75493

RECEIVED FROM

Application for Sign Permit

FOR

(2) 14x48 Signs - electronic

AMOUNT

DOLLARS

CENTS

TARENTUM

4082

—

CASH

CHECK

CREDIT CARD

AS

JAN 3 PAID

ACCOUNT NUMBER

^{PAID}
BOROUGH OF TARENTUM

Name: America First Enterprises, LLP - Jaymie Oliver

Account: _____ Date: 1/3/19

PAY TO THE ORDER OF Borough of Tarentum

Four thousand eight hundred Dollars

Bill Ganga Zoning App

2015.00 Fee Plus \$2.00

[Signature]

Farmers National Bank



BOROUGH OF TARENTUM

OFFICE OF BUILDING AND ZONING
318 E. SECOND AVENUE
TARENTUM, PENNSYLVANIA 15084
724.244.1818

ZONING HEARING BOARD APPEAL/APPLICATION

FOR INTERNAL USE ONLY		
File Date	Hearing Date	ZHB #

PLEASE ATTACH THE FOLLOWING:

<input checked="" type="checkbox"/>	Plot of Property in question showing relevant information.
<input checked="" type="checkbox"/>	Copy of action being appealed, if any.
<input checked="" type="checkbox"/>	Statement of argument or justification for request.
<input checked="" type="checkbox"/>	Application Fee \$850 – Make check or money order payable to Tarentum Borough. The cost of a transcript or copy thereof will be paid by the requesting party.

PLEASE COMPLETE THE FOLLOWING:

Holder of easement Property Owner:	American First Enterprises, LLP d/b/a Oliver Outdoor		
Property Address:	107 East 4th Avenue	Parcel ID.:	1223-R-26
Applicant Name:	American First Enterprises, LLP d/b/a Oliver Outdoor		
Applicant Address:	1768 N. Main Street Extension, Suite 4, Butler, PA 16001 <small>(No P.O. Box Allowed)</small>		
Applicant Phone #:	() 724-496-2222	Email:	jeromeoliver@icloud.com

Proposed Construction, if any: pole sign with two LED faces located within easement granted by owner; single 48"-diameter pole at ground level, two 48' faces at elevation; easement area 3240.93 SF





BOROUGH OF TARENTUM

INDICATE TYPE OF APPLICATION Section 909.1 (A) of the Pennsylvania Municipalities Planning Code	
<input type="checkbox"/>	Substantive challenge to the validity of any land use ordinance except those brought before the governing Body.
<input checked="" type="checkbox"/>	Appeals from determination of Zoning Officer.
<input type="checkbox"/>	Appeals from determination of Municipal Engineer or Zoning Officer regarding flood plain restrictions of the zoning Code.
<input type="checkbox"/>	Applications for variances from the terms of the zoning codes or of flood plain provisions within a land use ordinance.
<input type="checkbox"/>	Applications for uses authorized by special exception under the zoning code.
<input type="checkbox"/>	Appeals from determinations related to transfer of development rights or performances density Provisions.
<input type="checkbox"/>	Appeals from the zoning officer's determination under Section 916.2 entitled Procedure to Obtain Preliminary Opinion.
<input type="checkbox"/>	Appeals from the determination of the Zoning Officer or municipal engineer with reference to sedimentation and erosion control and storm water management for development not involving subdivision and land development or planned residential development.
<input type="checkbox"/>	Nonconforming uses and structures-authorization of expansion, enlargement, alteration or extension
** If Applicant is not owner, Evidence to act on the owner's behalf is required.	

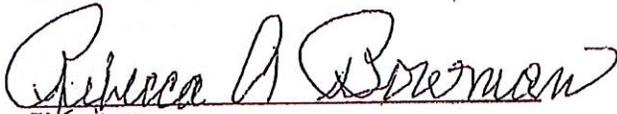
<p>Please provide citation of ordinance requirements which the application or appeal involves. Be specific attaching copy of action being appealed, if any, and giving code references.</p> <p>See attached analysis. Officer Bruni advised that he had not deposited the application check at the time he produced the denial/rejection. Appellant advised him on 4/4 to deposit the check so that the appeal period will be triggered.</p>

APPLICATION CERTIFICATION

I hereby certify that I am:

<input checked="" type="checkbox"/>	Holder of easement over Owner of the above-named property.	<input type="checkbox"/>	Authorized agent for the above-named property owner
<input type="checkbox"/>	A person aggrieved.	<input type="checkbox"/>	An officer or agent of Tarentum Borough.

I hereby certify that the information contained in this application is true and correct to the best of my knowledge, information and belief.


Signature

4-5-19
Date

\$265-402 COMMERCIAL CENTER, CC

D. Conditional Uses. See Section 265-502

\$265-502 SPECIFIC CONDITIONAL USE STANDARDS

B. Billboards are authorized as a conditional use as follows in the C-3 Heavy commercial district on otherwise vacant parcels of land.

- (1) The billboard shall be limited to 200 square feet.
- (2) The billboard shall be set back a minimum of 500 from the property line of any lot bearing an existing single family dwelling.
- (3) The billboard shall be setback at least 100 feet from any side or rear property line not withstanding stricter provisions regarding residentially zoned properties.
- (4) The billboard shall be set back at least 20 feet from any street and shall be located within 125 feet of the right of way of Route 28 and oriented to Route 28.
- (5) Manual changeable copy signs and electronic message centers as defined in Article VIII are not permitted in association with a billboard.
- (6) No flashing or colored lighting are permitted in association with any billboard.

Comment [WU1]: There is no C-3 Heavy Commercial District. There is only the CC Commercial Center. Notwithstanding (4) (which is legal if possible), the only area with billboard authorized as a conditional use is commercial.

Comment [WU2]: Existing approved billboards are substantially larger than 200 square feet.

Comment [WU3]: The area of Route 28 is R-1 Single Family Residential with a Rural Resource Overlay. Thus according to this section billboard would not be conditional uses along Route 28. Yet billboards have been approved.



BOROUGH OF TARENTUM

OFFICE OF BUILDING AND ZONING
318 E. SECOND AVENUE
TARENTUM, PENNSYLVANIA 15084
724.244.1818

ZONING REQUEST APPLICATION

Date: <u>1/3/19</u>
Property Owner: <u>American First Enterprises, LLC, d/b/a Oliver Outdoor</u>
Property Address: <u>107 East 4th Avenue</u> Parcel ID.: <u>1223-R-26</u>
Applicant Name: <u>American First Enterprises, LLC, d/b/a Oliver Outdoor</u>
Applicant Address: <u>1768 N. Main Street Extension, Suite 4, Butler, PA 16001</u> (No P.O. Box Allowed)
Applicant Phone #: <u>(724) 496-2222</u> Email: <u>jeromeoliver@icloud.com</u>

Proposed Use: <u>sign</u> (i.e. New Construction, Addition, Pool, Fence, Shed, Car Port, Etc.)
Brief Description: <u>pole sign with two LED faces located within easement granted by owner; single 48"-diameter pole at ground level, two 48' faces at elevation; easement area 3240.93 SF</u>

APPLICATION CERTIFICATION

I hereby certify that I am the owner of the above-named property or that I have the authorization by the owner to make application as the authorized agent. I hereby certify that the information contained in this application is true and correct to the best of my knowledge, information and belief. I agree to conform to the Ordinance(s) relating to this registration.

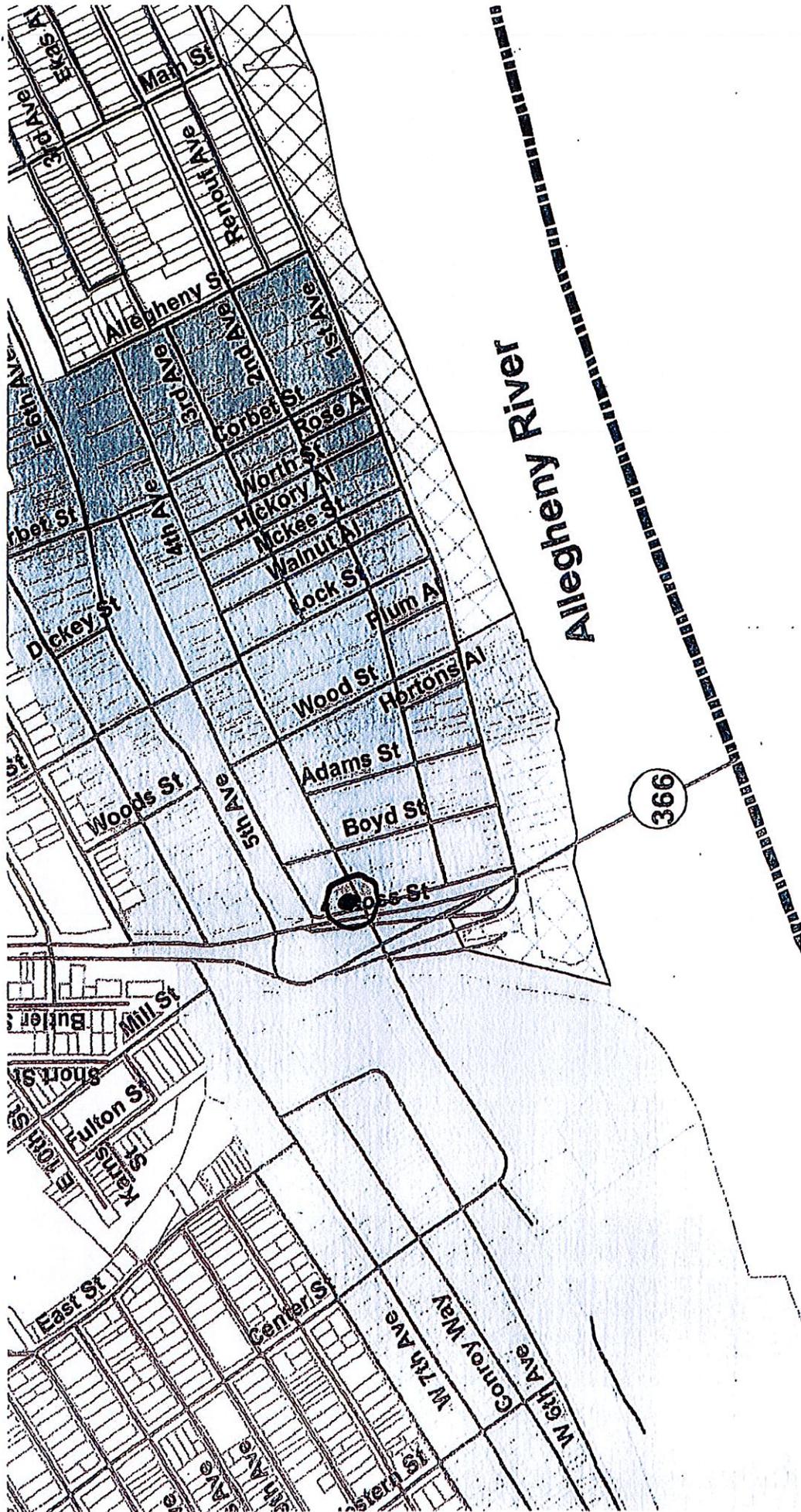
[Signature]
Signature

1/3/19
Date

FOR INTERNAL USE ONLY

Permit Fee:	Date Paid:	Check Number:
<u>\$4,082.00</u>	<u>1-3-19</u>	<u>RECEIPT # 75493</u>
Zoning Request Denial Date:	<u>1-22-19</u>	Reason for denial:
Do setbacks comply?:	Yes <input type="checkbox"/> No <input type="checkbox"/>	<u>ZONING ORDINANCE 265-402 SUBSECTIONS C, D. NOT A PERMITTED OR CONDITIONAL USE.</u>
Is this a Permitted Use?:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Is this a Conditional Use?:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Can building permit be issued?:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
PC approval necessary?:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Eligible for appeal to ZHB?:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Date Approved:	Zoning Officer (Signature): <u>[Signature]</u>	

RECEIVED 1-10-19 [Signature]



**Borough of Tarentum
Zoning Ordinance
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- (7) Back-lit, translucent awnings or canopies.
 - (8) Permanent signs made of plywood, pressed board, MDO or non-exterior grade wood products.
 - (9) Signs attached to or painted on a licensed vehicle within a residential zoning district if such sign is visible from a public street where such is displayed with the intent of advertising.
- D. Signs shall not block required sight distance at intersections of streets and access roads and driveways to streets.
 - E. No sign or structure shall be erected at any location where, by reason of the position, shape or color of the sign or structure, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or public directional, emergency, or street signage.
 - F. The display of signage within public rights of way, including sidewalks within public rights of way shall be governed by Article VII of this Ordinance.
 - G. Window signs displayed on a permanent basis shall be considered as walls signs for purposes of this Article.
 - H. All external lighting associated with signs shall be provided as indirect lighting.
 - I. Billboards, as defined, shall be permitted in the RRO Rural Resource Overlay District. (See Section 265-406, Subsection F)

§ 265-703 EXEMPTIONS

The following signs shall not require a permit. The sign area of the following shall not count toward maximum sign area requirements imposed by this Article.

- A. Public, Semi-Public, and Commemorative Signs and Monuments including signs established by, or by order of, any governmental agency; and religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historic agencies.
- B. Signs indicating the address or name of a building up to two square feet for single family dwellings and six square feet for all other uses.
- C. One "For Sale" or "For Rent" sign is allowed per street frontage. Such signs must be removed within 7 days after the sale, rental, or lease has been accomplished.
- D. "For Sale" or "For Rent" signs on lots containing a single-family dwelling unit or zoned for single-family residential development may not exceed 9 square feet in area.
- E. "For Sale" or "For Rent" signs on lots containing principal uses other than single family dwellings may not exceed the greater of 32 square feet or 0.25 square feet of sign area per each linear foot of street frontage for the first 150 feet of street frontage and 0.10 square feet of sign area for each linear foot of street frontage

- (8) Maximum Building Height: 40 feet or two and one half stories, whichever is less.

§.265-406 RFO RIVERFRONT OVERLAY

- A. Purpose. The RFO District is designed to encourage innovative development in conjunction with complementary protection of the Borough's natural features and assets, including its riverfront and wooded hillsides.
- B. Applicability of the Districts. The RFO District shall be designated as an overlay district. Therefore, the district standards, whether greater or lesser than those of the underlying base zoning district, shall prevail when uses expressly authorized within the overlay are constructed, operated, and maintained.
- C. The following uses shall be authorized as permitted uses within the RFO District:
 - (1) All permitted and conditional uses in the R-1 Single Family District.
 - (2) Administrative and Professional Offices
 - (3) Banquet Hall
 - (4) Entertainment Recreation Facilities, Indoor
 - (5) Personal Care Home
 - (6) School, Private
 - (7) Group Residential Facility
 - (8) Planned Commerce Park Model
 - (9) Hospital or Clinic
 - (10) Transitional Residential Facility
 - (11) Animal Hospital/Clinic
- D. Basic Dimensional Standards. The following shall apply to all uses authorized
 - (1) Minimum Front Yard: 75 Feet
 - (2) Minimum Side Yard: 60 Feet
 - (3) Minimum Rear Yard: 75 Feet
 - (4) Maximum Lot Coverage: 40 Percent
 - (5) Maximum Impervious Surface Coverage: 60 Percent
 - (6) Minimum Lot Area: 40,000 square feet
 - (7) Minimum Lot Width: 150 feet
- E. Dimensional Standards for authorized conditional uses. The Planned Commercial Park Model shall be subject to the standards enumerated in Section 265-504.
 - (1) Minimum Front Yard: 75 Feet

- (2) Minimum Side Yard: 75 Feet
- (3) Minimum Rear Yard: 75 Feet
- (4) All yards shall increase by five feet for every thousand square feet of gross floor area beyond five thousand square feet of total gross floor area of buildings on the lot.
- (5) Maximum Lot Coverage: 35 Percent
- (6) Maximum Impervious Surface Coverage: 50 Percent
- (7) Minimum Lot Area: 80,000 square feet
- (8) Minimum Lot Width: 50 feet
- (9) Maximum Building Height: 45 feet or three stories, whichever is less.

No F

§ 265-407 FLOODPLAIN DISTRICTS

- A. Purposes. The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief and the impairment of the tax base by:
 - (1) Regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.
 - (2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.
 - (3) Requiring all those uses, activities and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
 - (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- B. Applicability.
 - (1) These provisions shall apply to all lands within the jurisdiction of the Borough of Tarentum and shown as being located within the boundaries of the designated floodplain districts which are considered as a part of the Official Zoning Map.
 - (2) No structure or land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this article and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this article.
- C. Overlay concept.

- (3) Prior to any proposed alteration or relocation of any stream, watercourse, etc., within the Borough of Tarentum, a permit shall be obtained from the Department of Environmental Protection, Dams and Waterways Management Bureau. Further, notification of the proposal by the Borough shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Department of Community Affairs.

H. Administration.

- (1) A zoning permit shall be required for all construction and development which includes but is not limited to paving, filling, grading, excavation, mining, dredging or drilling operations, etc.
- (2) These provisions are to be read in conjunction with those of Ordinance No. 95-7 (Chapter 95, Building Construction, Article 111, Floodplain Management).

§ 265-408 P-1 PUBLIC DISTRICT

- A. Purpose: The purpose of the P-1 Public District is to provide areas for active and passive recreational activities and facilities as determined appropriate by Borough Council.
- B. Permitted Uses:
 - (1) Permitted Principal Uses:
 - a) Appropriate recreational uses as determined by the Borough Council, and in accordance with the current Park and Recreation Commission rules and guidelines.
 - b) Facilities designed and constructed to promote access to and utilization of riverfront property including, but not limited to, boat launch ramps, outlooks and fishing docks.
 - (2) Permitted Accessory Uses: Accessory uses and structures customarily appurtenant to a permitted use.
- C. Basic Dimensional Standards: Dimensional standards shall be determined based on the characteristics of the use proposed and the physical attributes of the land being developed.

§ 265-409 RC, ROADWAY COMMERCIAL DISTRICT

- A. Purpose. The RC District is designed to encourage innovative commercial development along the Borough's Route 28 corridor while retaining the essential characteristics of the region and protecting the Borough's natural features.
- B. Permitted Uses. The following uses shall be authorized as permitted uses within the RC District:

- (1) All permitted and conditional uses in the R-1 Single Family District
- (2) Administrative and Professional Offices
- (3) Banquet Hall
- (4) Entertainment Recreation Facilities, Indoor
- (5) Personal Care Home
- (6) School, Private
- (7) Group Residential Facility
- (8) Hospital or Clinic
- (9) Transitional Residential Facility
- (10) Animal Hospital/Clinic
- (11) Warehouse
- (12) Billboards

C. Basic Dimensional Standards. The following shall apply to all uses authorized:

- (1) Minimum Front Yard: 75 Feet
- (2) Minimum Side Yard: 60 Feet
- (3) Minimum Rear Yard: 75 Feet
- (4) Maximum Lot Coverage: 40 Percent
- (5) Maximum Impervious Surface Coverage: 60 Percent
- (6) Minimum Lot Area: 40,000 square feet
- (7) Minimum Lot Width: 150 feet

D. Dimensional Standards for authorized conditional uses.

- (1) Minimum Front Yard: 75 Feet
- (2) Minimum Side Yard: 75 Feet
- (3) Minimum Rear Yard: 75 Feet
- (4) All yards shall increase by five feet for every thousand square feet of gross floor area beyond five thousand square feet of total gross floor area of buildings on the lot.
- (5) Maximum Lot Coverage: 35 Percent
- (6) Maximum Impervious Surface Coverage: 50 Percent
- (7) Minimum Lot Area: 80,000 square feet
- (8) Minimum Lot Width: 50 feet

- (9) Maximum Building Height: 45 feet or three stories, whichever is less.
- E. Billboards are authorized permitted uses in the RC District, either as a principle or accessory use, subject to Pennsylvania Department of Transportation (PennDOT) regulations where such billboard is proposed on land abutting a Commonwealth owned and maintained right-of-way and the following standards:
- (1) Billboards may not exceed forty-two feet (42') in width and fourteen feet (14') in height.
 - (2) Billboards may not be illuminated after 1 a.m. and before 6 a.m.
 - (3) Billboards may not be placed closer than five hundred feet (500') from any point on another billboard.
 - (4) An annual billboard permit fee shall be paid to the Borough, upon inspection, at a rate set by Council by resolution, as may be amended from time to time.

- (2) Where new structures are proposed, building elevations showing building façade treatments.
- (3) The following shall be submitted as an impact study.
 - (a) Information concerning the average number of daily vehicle trips estimated to be generated by such use, with peak-hour vehicle trip ends identified.
 - (b) Information concerning the estimated amount of tax revenue to be generated by such a use, broken down by revenue to paid to the Borough, Allegheny County, and the Highlands School District.
 - (c) Information concerning the estimated cost of public services to be provided to such use, broken down by cost to be borne Borough, Allegheny County, and the Highlands School District, including police, transportation, and other public services.
 - (d) Applicants shall submit a narrative detailing the proposed use including gross floor area, number of employees, operating hours, and a general synopsis of business or use activities and operating polices, including information sufficient to demonstrate compliance with State licenses as may be required.
- (4) Required fee per the Borough's adopted fee schedule.
- (5) The applicant shall indicate in writing whether or not the applicant is willing to accept the decision of a hearing officer if the Borough Council, by majority vote, accepts the decision and findings of a hearing officer in lieu of its own decision and findings, as authorized in Section 913.2 of the Pennsylvania Municipalities Planning Code, as amended.

§ 265-502 SPECIFIC CONDITIONAL USE STANDARDS

A. Automotive Sales And Leasing

- (1) The impervious area utilized for the retail display of vehicles shall not exceed twice that of the gross floor area of the principal structure.
- (2) A full parking plan shall be submitted delineating areas reserved for employee and customer parking versus those to be utilized for retail display of vehicles.
- (3) Display of vehicles shall be within parking spaces that are striped and landscaped in accordance with those standards otherwise applied to parking lots throughout this Chapter.
- (4) In lieu of screening requirements, the applicant may install one additional ornamental tree for every thirty feet of screening omitted in order to permit visibility of the retail display of vehicles on the lot. Said trees shall be installed within the landscaping area from which the required screening was omitted.

B. Billboards. Billboards are authorized as a conditional use as follows in the C-3 Heavy commercial district on otherwise vacant parcels of land.

- (1) The billboard shall be limited to 200 square feet.
- (2) The billboard shall be set back a minimum of 500 feet from the property line of any lot bearing an existing single family dwelling.
- (3) The billboard shall be setback at least 100 feet from any side or rear property line not withstanding stricter provisions regarding residentially zoned properties.
- (4) The billboard shall be set back at least 20 feet from any street and shall be located within 125 feet of the right of way of Route 28 and oriented to Route 28.
- (5) Manual changeable copy signs and electronic message centers as defined in Article VIII are not permitted in association with a billboard.
- (6) No flashing or colored lighting are permitted in association with any billboard.

C. Drive Through Facilities and Car Washes

- (1) A minimum of 100 feet as a stacking lane shall be provided with an additional twenty feet of stacking required for each bay or station beyond one. The lane(s) shall be at least ten feet in width.
- (2) Drive through facilities shall be situated on parcels bearing a lot size of 20,000 square feet or greater.
- (3) All drive through lanes shall abide by the same setbacks imposed on principal building structures as applied to the lot on which the facility is constructed.

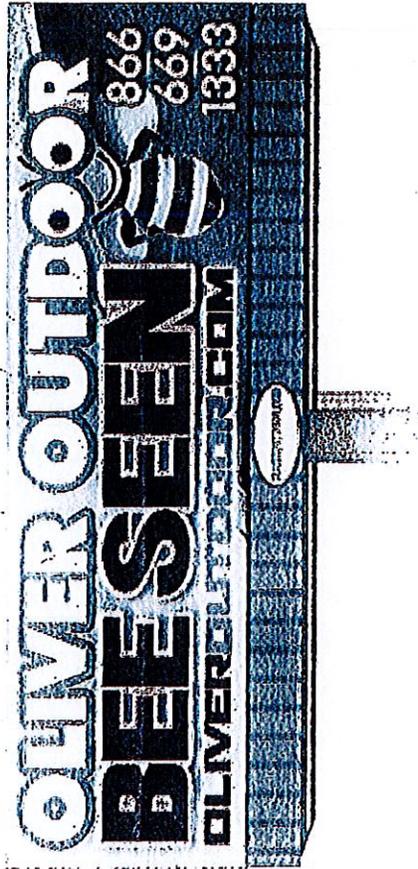
D. Animal Hospital or Clinic, Commercial Kennel

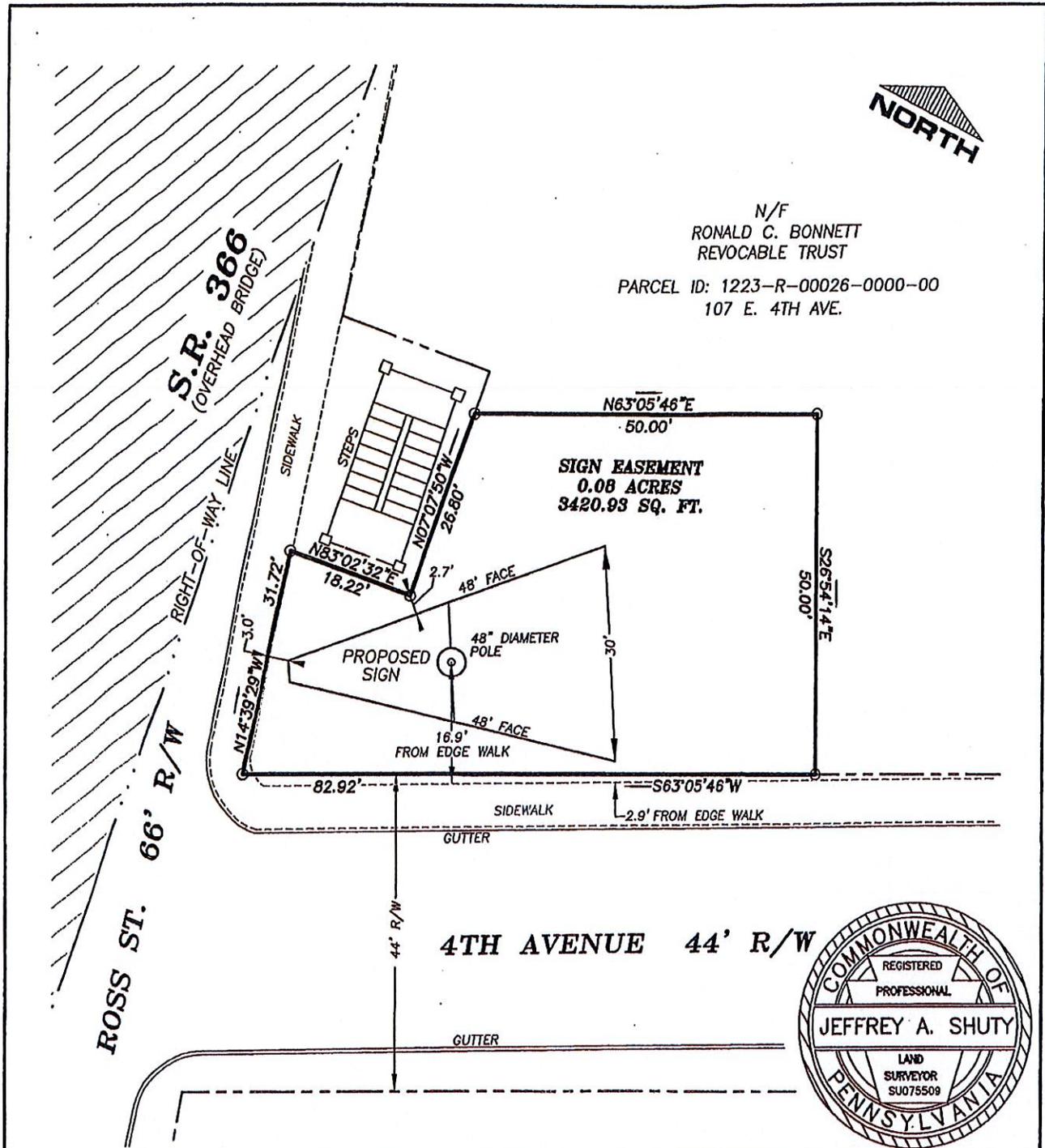
- (1) Exterior runs shall be enclosed by a secured opaque fence of six feet in height which shall be setback the same distance as required for principal building, as applied to the lot on which the establishment operates. Use of the runs shall not occur before 8 am and after 9 pm.

E. Hospitals and Transitional Residential Facilities

- (1) Notwithstanding stricter standards otherwise applied by this Chapter, the principal building housing the establishment or facility shall be set back 300 feet from a preexisting dwelling unit, day care or adult day care center, nursery school, or local public use, church, or other hospital. The same requirement shall apply to heliports accessory to the facility. The establishment shall be situated on a lot with a lot area of one acre or greater.

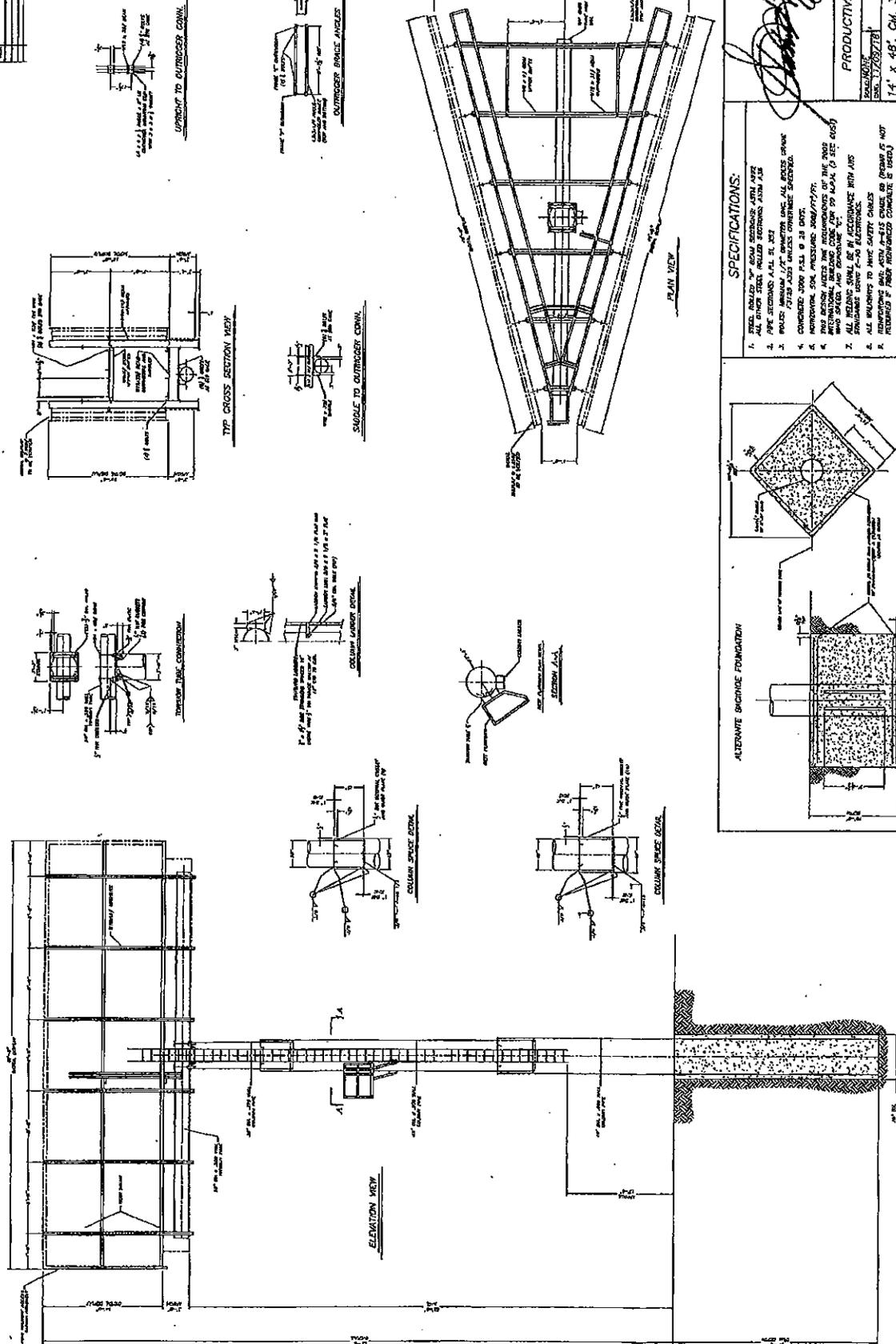
F. Service Station





<p>NORTHERN SURVEYORS AND ASSOCIATES</p> <p>137 LINK LANE SLIPPERY ROCK, PA 16057 (724) 530-6889</p>	Date: NOV. 7, 2018	EXHIBIT "A"
	NOV. 9, 2018	
	JAN. 3, 2019	Situate In
	Scale: 1" = 20'	BOROUGH OF TARENTUM ALLEGHENY COUNTY, PA
	Job No. 3087	Prepared For AMERICA FIRST ENT.

NO.	DATE	REVISION

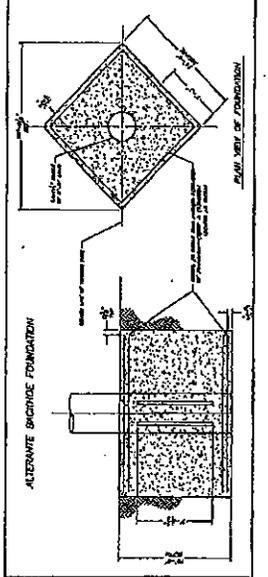


PRODUCTIVITY FABRICATORS

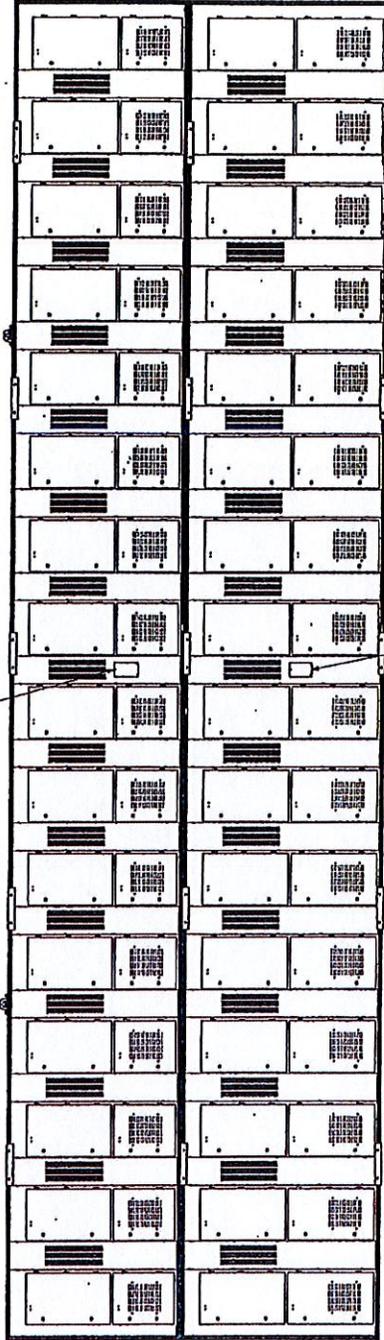
14' x 48' CM, 30V, 66'-0" HGL. SIGN
 OVER/OUTDOOR

66-9384

- SPECIFICATIONS:**
1. ALL STEEL SHALL BE A36 STRUCTURAL STEEL UNLESS OTHERWISE SPECIFIED.
 2. ALL WELDS SHALL BE E70T-18.
 3. ALL BOLTS SHALL BE A325.
 4. ALL BOLTS SHALL BE W/ WASHERS.
 5. ALL BOLTS SHALL BE W/ NUTS.
 6. ALL BOLTS SHALL BE W/ CONCRETE.
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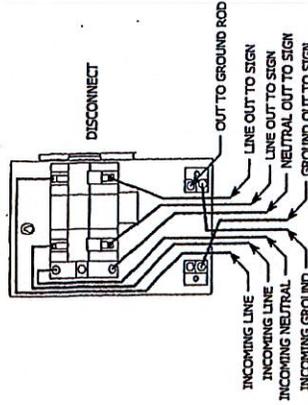


DISCONNECT
WATCHFIRE SUPPLIED
240 VOLT
26 AMP DRAW (MAX)



DISCONNECT
WATCHFIRE SUPPLIED
240 VOLT
28 AMP DRAW (MAX)

MAIN 240V SERVICE
(L1, L2, NEUTRAL, GROUND)



INSTALLATION NOTES:

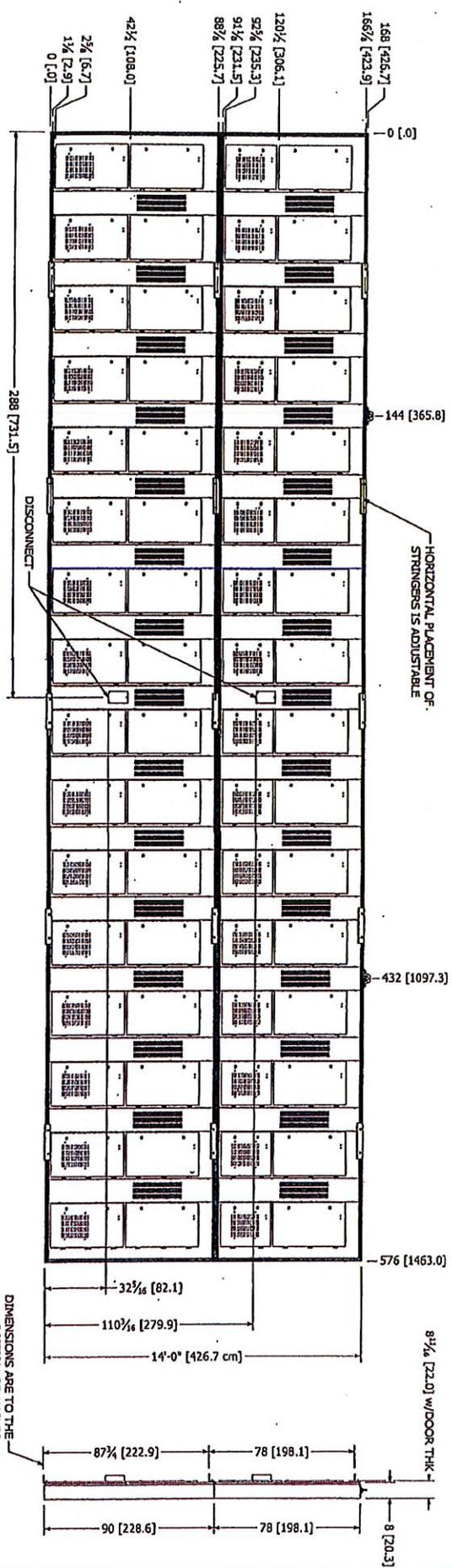
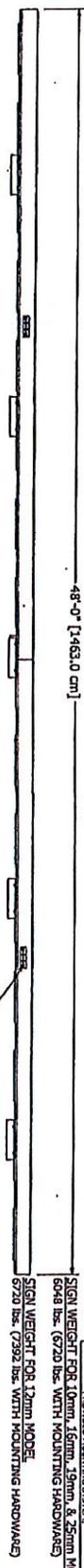
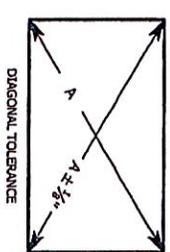
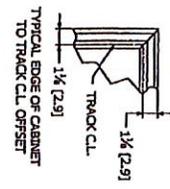
1. ELECTRICAL REQUIREMENTS: 240 VOLTS, SINGLE PHASE, 54 TOTAL AMPS FOR SIGN, 4-WIRE, CURRENT CARRYING NEUTRAL, 12.96 KW TOTAL FOR SIGN.
2. DISCONNECTS: 30 AMP UNFUSED DISCONNECT 120/240 VAC
3. GROUND: BRING A COPPER-CLAD GROUND ROD INTO THE GROUND NEAR THE SIGN. ATTACH A #6 GROUND WIRE TO THE GROUND ROD AND ROUTE AND CONNECT IT TO THE GROUND NEUTRAL BUS IN THE DISCONNECT.
ENSURE ALL WIRING CONNECTING THE GROUND ROD TO THE SIGN IS SECURELY ATTACHED.
BE SURE TO FOLLOW ALL NATIONAL ELECTRICAL CODE REQUIREMENTS.
4. UL CERTIFICATE NUMBER: E221802 (UL-48)



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LINEAR TOLERANCES	ANGULAR TOLERANCES	ALL DIMENSIONS ARE UNLESS OTHERWISE SPECIFIED. APPLY TO ALL DIMENSIONS UNLESS TOLERANCES DO NOT APPLY TO INDICATED DIMENSIONS.	CNC PROGRAM	CNC INFORMATION	MODEL REV	DRAWING REV	THIRD ANGLE PROJECTION	DESCRIPTION
X/..... = ± .125" X.X/..... = ± .0450" X.XX/..... = ± .0300" X.XXX/..... = ± .0150" X.XXXX/..... = ± .0050"	X/..... = ± 3° X.X/..... = ± 1° X.XX/..... = ± .5° X.XXX/..... = ± .25°		CUT LENGTH	PARTS POLISHED	1	1	2 of 2	REPAIR SERVICE - 17 X 47 VIEWABLE - 0416.M - DIMENSIONS 168" X 576"
			PROGRAMMED BY				STOCK	PATENTUAL
								GATE ORGANS
								5/17/2016
								1 Criz
								1470x4870_S.N.13047_R
								VALVE LOCATION: Damppwall, Customer Demand (Tech Support) User: services@criz.com, 5/17/2016 2:30 PM

- NOTES:
1. ELEVATION DIMENSIONS ARE TO CENTERLINE OF TRACK.
 2. DISCONNECTS MAY VARY DEPENDING ON APPLIANCE REQUIREMENTS.
 3. IN LOCATIONS WHERE A TRACK IS DIRECTLY ABOVE ANOTHER TRACK (CABINET SEAMS), STRINGERS ARE TO BE PLACED ON THE BOTTOM TRACK.



watchfire

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DIMENSION STYLE		TOLERANCES		THE TOLERANCE IS FOR THE PURPOSE OF MANUFACTURING AND IS NOT A GUARANTEE OF DIMENSIONAL ACCURACY. ALL DIMENSIONS ARE TO UNLESS OTHERWISE SPECIFIED.	
INCHES (CENTIMETERS)	OVERALL SIZE DIMENSION	± .14"	± .14"	± .14"	± .14"
	LINEAR DIMENSION	± .11"	± .11"	± .11"	± .11"
	ANGULAR DIMENSION	± .1°	± .1°	± .1°	± .1°
	STRAIGHTNESS	± .002"/ft.	± .002"/ft.	± .002"/ft.	± .002"/ft.

MODEL: REV1 DRAWING REV1 THIRD ANGLE PROJECTION DESCRIPTION: REAR SERVICE - 13 X 47 VIEWABLE - DIMENSIONS 168 X 576

DATE CREATED: 5/17/2016 DRAWN BY: CLTZ PART NUMBER: 14904870_S_N_13047_R

WALL LOCATION: Cabinet [Customer Drawing] Track Stringer [Customer Drawing] S. N. 13047_R

DIMENSION STYLE: INCHES (CENTIMETERS)



January 7, 2019

A baby girl is born at Bayhealth Hospital and everyone in town gets a picture. Dover High School beats Caesar Rodney High School in basketball; the score is on the street before it's on television that night. An alert is broadcast to drivers that a severe thunderstorm is coming towards Kent County. These notifications and updates are available at any time of the day; every day on a digital billboard.
DIGITAL BILLBOARDS ARE A COMMUNITY RESOURCE!

Unlike static boards that display a static image lacking creativity and immediacy, digital billboards offer the ability to communicate messages in a non-obtrusive manner. Due to the multiple exposure opportunities, digital outdoor advertising offers local advertisers a cost-effective advertising medium that static billboards, newspapers, internet, and radio cannot compete. Public service is another feature that is unmatched by other forms of communications. That severe thunder storm warning will be programed to appear on the digital billboard as well as FBI notifications, Amber Alerts, Community Events etc. all in real time.

As the industry leader in Digital Outdoor Advertising, Watchfire Signs are built in Danville IL; utilizing the finest LED's, the latest scheduling software, attractive displays, FCC complaint, and the highest level of service and support to our customers. What does this mean to the communities where are signs operate? The digital signs will look attractive; without color mismatches and modules being dark. If there are any operational issues with our signs the service department is quickly made aware and the problems are corrected using local service providers.

Lighting concerns can be a potential issue; Watchfire Digital Signs are factory set to not exceed 7,500 NITS during daytime operation and 300 NITS during nighttime operation. As an example, todays digital TV's are 1000 to 2000 NITS. These settings are compliant with standards as established by the Outdoor Advertising Association of America (OAAA). Both day-and-night maximum brightness is capped via software and cannot be brightened. All Watchfire digital billboards automatically adjust their brightness as ambient light levels change. A 100-step photocell automatically and immediately adjusts the signs light levels during storms and at dusk. At night, the LED operates at approximately 4% of the entire daytime maximum brightness. The night time percentage varies based on ambient light conditions.

Static billboards utilizing standard lighting vs. LED's cannot reduce the brightness at night. They also require labor to change the copy out on a monthly basis which can lead to traffic obstructions. They also only offer one advertising display per face; which makes them more expensive for local advertisers. There are no such issues with digital billboards.

Please review the link below for additional information related to Watchfire Digital Outdoor.

<https://www.watchfiresigns.com/led-basics/led-signs-zoning-statutes/>

Please feel free to contact me with any questions or comments.

John Montague
Territory Manager, Mid-Atlantic
Watchfire Digital Outdoor

February 6, 2019

Background on Optical Measurements and Calculations

Watchfire Signs has manufactured outdoor electric signs since 1932 and led signs since 1996. We have more than 50,000 led signs in operation worldwide.

Incandescent signs were commonly measured using illuminance measurements, partly because the light bulb is ideally a point source of light, illuminating equally in all directions, and illuminance meters are commonly available and inexpensive. Foot-candle measurements are made at a defined distance from the sign and the magnitude depends on the physical size of the sign.

LED signs are highly directional however, which is an advantage in an urban setting since the light can be directed more precisely to the intended audience. Luminance measurements have been used to specify LED signs by the industry. The candela per square meter (NITs) unit allows a specification that does not depend on size or viewing distance.

The study done on the sign adjacent to a residential area used actual lab measurements made on modules using an illuminance meter. These measurements and extrapolations are then scaled up to the size of the sign and the distance corrections are made using the inverse square law.

Watchfire adopted brightness standards set forth by both the ISA (International sign Association) and OAAA (Outdoor Advertising Association of America). The standards used are based on the studies of Dr. Lewin and the IESNA (Illuminating Engineering Society of North America).

Below is a list of some of the measurement equipment used by Watchfire engineers.

Equipment used by Watchfire engineers to make lighting measurements:

Foot-candles/Lux - Minolta Illuminance Meter T-10

NITs/candela/sq. m - Minolta Luminance Meter LS-100

Sign Calibration - Minolta CS-1000 Spectra radiometer

SIGN LIGHTING STUDY

Sign Details

Size: 12' x 24' Digital Billboards

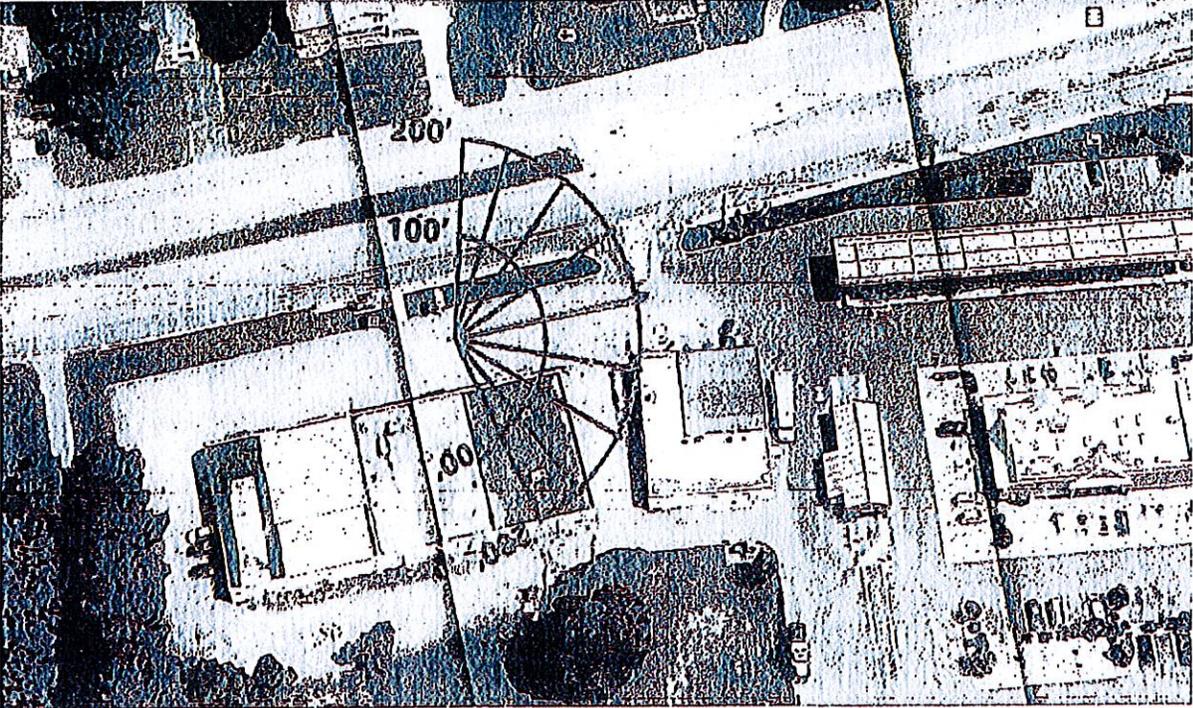
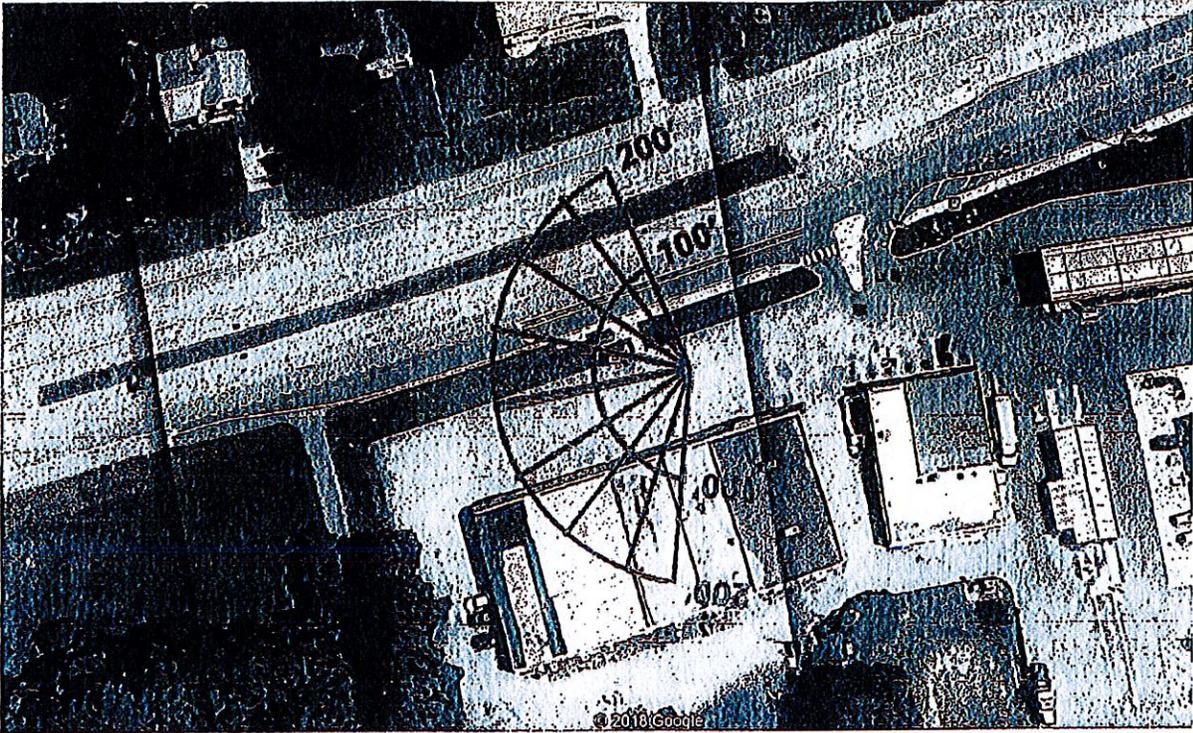
Location: 6 East Lebanon Rd, Dover

Light measurements are completed in foot-candles. A foot-candle is the amount of light produced by a single candle when measured from 1 foot away. For reference, a 100-watt light bulb produces 137 foot-candles at 1 foot away, .0548 foot-candles at 50 feet and .0137 foot-candles at 100 feet.

The table represents the total increase in ambient light produced by the sign under normal or typical operation at night. The ambient light increases will be less than shown in the chart since they fail to consider any objects blocking the line of site to the sign. Obstructions such as trees would further reduce real world overall ambient light increases. In addition to obstructions any existing light within the viewing cone will further diminish any light increase.

	0 degrees	20 degrees	40 degrees	60 degrees	75 degrees
100'	0.2821	0.2328	0.1572	0.0711	0.0141
200'	0.0705	0.0582	0.0393	0.0178	0.0035
300'	0.0313	0.0259	0.0175	0.0079	0.0016
400'	0.0176	0.0145	0.0098	0.0044	0.0009
500'	0.0113	0.0093	0.0063	0.0028	0.0006

Light values in foot-candles at night under typical operation



Conclusion

Given the above comparisons and measurements, the area will see an almost undetectable difference in ambient light after installation of the digital led displays. Ambient light levels are more heavily impacted by street, building, and landscape lights than the increases produced by a digital billboard.

Ray Digby

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ray.digby@watchfiresigns.com

ARTICLE IV
District Regulations

§ 265-401 AUTHORIZATION OF DISTRICTS

The following Base Zoning Districts are authorized by this Chapter and shall be depicted on the Zoning Map.

- A. Commercial Center, CC.
- B. Highway Commercial and Manufacturing District, HC-M .
- C. Mixed Density Residential District, R-2.
- D. Single Family Residential District, R-1
- E. Public District, P-1.
- F. Roadway Commercial District, RC.

The following Overlay Zoning Districts are authorized in this Chapter and shall be depicted on the Zoning Map.

- A. RFO Riverfront Overlay.
- B. Floodplain District as depicted on the most current Flood Insurance Rate Maps as defined herein.

§ 265-402 COMMERCIAL CENTER, CC

- A. Purpose. The purpose of the CC District is to promote the character and vitality of Tarentum's traditional downtown through preservation of existing structures and development and redevelopment of commercial and residential structures and uses.
- B. Traditional Neighborhood Development. Where any construction or improvement of structures in the CC Commercial Center District constitutes a Traditional Neighborhood Development (TND) as defined in Article II of this Chapter, the construction or improvement shall meet the standards and require approval in accordance with the Article VI of this Chapter. In addition, to the extent possible, construction or improvement should meet the guidelines prepared by the Pittsburgh History and Landmarks Foundation, attached as an appendix to this Ordinance.
- C. Permitted Uses. The following uses shall be authorized within the CC District subject to the performance standards of this Article.
 - (1) Administrative And Professional Offices
 - (2) Adult Day Services Center
 - (3) Animal Hospital/Clinic



- C. Basic Dimensional Standards: Dimensional standards shall be determined based on the characteristics of the use proposed and the physical attributes of the land being developed.

§265-409 RC, ROADWAY COMMERCIAL DISTRICT

- A. Purpose. The RC District is designed to encourage innovative commercial development along the Borough's Route 28 corridor while retaining the essential characteristics of the region and protecting the Borough's natural features.
- B. Permitted Uses. The following uses shall be authorized as permitted uses within the RC District:
- (1) All permitted and conditional uses in the R-1 Single Family District
 - (2) Administrative and Professional Offices
 - (3) Banquet Hall
 - (4) Entertainment Recreation Facilities, Indoor
 - (5) Personal Care Home
 - (6) School, Private
 - (7) Group Residential Facility
 - (8) Hospital or Clinic
 - (9) Transitional Residential Facility
 - (10) Animal Hospital/Clinic
 - (11) Warehouse
 - (12) Billboards
- C. Basic Dimensional Standards. The following shall apply to all uses authorized:
- (1) Minimum Front Yard: 75 Feet
 - (2) Minimum Side Yard: 60 Feet
 - (3) Minimum Rear Yard: 75 Feet
 - (4) Maximum Lot Coverage: 40 Percent
 - (5) Maximum Impervious Surface Coverage: 60 Percent
 - (6) Minimum Lot Area: 40,000 square feet
 - (7) Minimum Lot Width: 150 feet
- D. Dimensional Standards for authorized conditional uses.
- (1) Minimum Front Yard: 75 Feet

- (2) Minimum Side Yard: 75 Feet
 - (3) Minimum Rear Yard: 75 Feet
 - (4) All yards shall increase by five feet for every thousand square feet of gross floor area beyond five thousand square feet of total gross floor area of buildings on the lot.
 - (5) Maximum Lot Coverage: 35 Percent
 - (6) Maximum Impervious Surface Coverage: 50 Percent
 - (7) Minimum Lot Area: 80,000 square feet
 - (8) Minimum Lot Width: 50 feet
 - (9) Maximum Building Height: 45 feet or three stories, whichever is less.
- E. Billboards are authorized permitted uses in the RC District, either as a principle or accessory use, subject to Pennsylvania Department of Transportation (PennDOT) regulations where such billboard is proposed on land abutting a Commonwealth owned and maintained right-of-way and the following standards:
- (1) Billboards may not exceed forty-two feet (48') in width and fourteen feet (14') in height.
 - (2) Billboards may not be illuminated after 1 a.m. and before 6 a.m.
 - (3) Billboards may not be placed closer than five hundred feet (500') from any point on another billboard.
 - (4) An annual billboard permit fee shall be paid to the Borough, upon inspection, at a rate set by Council by resolution, as may be amended from time to time.

- (2) Where new structures are proposed, building elevations showing building façade treatments.
- (3) The following shall be submitted as an impact study.
 - (a) Information concerning the average number of daily vehicle trips estimated to be generated by such use, with peak-hour vehicle trip ends identified.
 - (b) Information concerning the estimated amount of tax revenue to be generated by such a use, broken down by revenue to paid to the Borough, Allegheny County, and the Highlands School District.
 - (c) Information concerning the estimated cost of public services to be provided to such use, broken down by cost to be borne Borough, Allegheny County, and the Highlands School District, including police, transportation, and other public services.
 - (d) Applicants shall submit a narrative detailing the proposed use including gross floor area, number of employees, operating hours, and a general synopsis of business or use activities and operating polices, including information sufficient to demonstrate compliance with State licenses as may be required.
- (4) Required fee per the Borough's adopted fee schedule.
- (5) The applicant shall indicate in writing whether or not the applicant is willing to accept the decision of a hearing officer if the Borough Council, by majority vote, accepts the decision and findings of a hearing officer in lieu of its own decision and findings, as authorized in Section 913.2 of the Pennsylvania Municipalities Planning Code, as amended.

§ 265-502 SPECIFIC CONDITIONAL USE STANDARDS

A. Automotive Sales And Leasing

- (1) The impervious area utilized for the retail display of vehicles shall not exceed twice that of the gross floor area of the principal structure.
- (2) A full parking plan shall be submitted delineating areas reserved for employee and customer parking versus those to be utilized for retail display of vehicles.
- (3) Display of vehicles shall be within parking spaces that are striped and landscaped in accordance with those standards otherwise applied to parking lots throughout this Chapter.
- (4) In lieu of screening requirements, the applicant may install one additional ornamental tree for every thirty feet of screening omitted in order to permit visibility of the retail display of vehicles on the lot. Said trees shall be

Installed within the landscaping area from which the required screening was omitted.

B. Billboards. Billboards are authorized as a conditional use as follows in the C-3 Heavy commercial district on otherwise vacant parcels of land.

- (1) The billboard shall be limited to 200 square feet.
- (2) The billboard shall be set back a minimum of 500 feet from the property line of any lot bearing an existing single family dwelling.
- (3) The billboard shall be setback at least 100 feet from any side or rear property line not withstanding stricter provisions regarding residentially zoned properties.
- (4) The billboard shall be set back at least 20 feet from any street and shall be located within 125 feet of the right of way of Route 28 and oriented to Route 28.
- (5) Manual changeable copy signs and electronic message centers as defined in Article VIII are not permitted in association with a billboard.
- (6) No flashing or colored lighting are permitted in association with any billboard.

C. Drive Through Facilities and Car Washes

- (1) A minimum of 100 feet as a stacking lane shall be provided with an additional twenty feet of stacking required for each bay or station beyond one. The lane(s) shall be at least ten feet in width.
- (2) Drive through facilities shall be situated on parcels bearing a lot size of 20,000 square feet or greater.
- (3) All drive through lanes shall abide by the same setbacks imposed on principal building structures as applied to the lot on which the facility is constructed.

D. Animal Hospital or Clinic, Commercial Kennel

- (1) Exterior runs shall be enclosed by a secured opaque fence of six feet in height which shall be setback the same distance as required for principal building, as applied to the lot on which the establishment operates. Use of the runs shall not occur before 8 am and after 9 pm.

E. Hospitals and Transitional Residential Facilities

- (1) Notwithstanding stricter standards otherwise applied by this Chapter, the principal building housing the establishment or facility shall be set back 300 feet from a preexisting dwelling unit, day care or adult day care center, nursery school, or local public use, church, or other hospital. The same requirement shall apply to heliports accessory to the facility. The establishment shall be situated on a lot with a lot area of one acre or greater.

ARTICLE VII

SIGNS

The construction, operation, improvement, and maintenance of all signs in the Borough of Tarentum shall be subject to the standards outlined in this Article.

§ 265-701 CALCULATION METHODS

- A. For purposes of this Article, sign area shall be calculated as follows:
- (1) In the case of panel or cabinet type signs, the sign area shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated.
 - (2) Signs consisting of individual letters and/or elements or logos installed directly on a building surface will be measured as one sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter.
 - (3) When the sign faces of a multi-sided sign are parallel or within 30 degrees of parallel, only one side is counted. If the sign faces are not parallel or within 30 degrees of parallel, all sign faces are counted.
- B. Where sign area allotment is calculated based on building frontage, the linear feet used shall be the length of the building façade at ground level.

§ 265-702 GENERAL STANDARDS

- A. Obscene material, illustrations, or language shall not be depicted or displayed on any sign.
- B. To the extent possible, signs should meet the design guidelines prepared by the Pittsburgh History and Landmarks Foundation, attached as an appendix to this Ordinance.
- C. Notwithstanding that any signs not expressly authorized within this Article are prohibited, the following are expressly prohibited:
- (1) Flashing Signs.
 - (2) Banners, series of balloons, and pennants.
 - (3) Balloons and other inflatable objects with a diameter of 2 feet or greater.
 - (4) Signs larger than 2 square feet that are suspended by chains, ropes, or other means designed to allow the sign to swing or move freely.
 - (5) Roof Signs.
 - (6) Signs affixed directly to a tree, utility pole, light pole, traffic control device, barn, shed, or roof of a building or structure.

- (7) Back-lit, translucent awnings or canopies.
 - (8) Permanent signs made of plywood, pressed board, MDO or non-exterior grade wood products.
 - (9) Signs attached to or painted on a licensed vehicle within a residential zoning district if such sign is visible from a public street where such is displayed with the intent of advertising.
- D. Signs shall not block required sight distance at intersections of streets and access roads and driveways to streets.
 - E. No sign or structure shall be erected at any location where, by reason of the position, shape or color of the sign or structure, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or public directional, emergency, or street signage.
 - F. The display of signage within public rights of way, including sidewalks within public rights of way shall be governed by Article VII of this Ordinance.
 - G. Window signs displayed on a permanent basis shall be considered as walls signs for purposes of this Article.
 - H. All external lighting associated with signs shall be provided as indirect lighting.
 - I. Billboards, as defined, shall be permitted in the RRO Rural Resource Overlay District. (See Section 265-406, Subsection F)

§ 265-703 EXEMPTIONS

The following signs shall not require a permit. The sign area of the following shall not count toward maximum sign area requirements imposed by this Article.

- A. Public, Semi-Public, and Commemorative Signs and Monuments including signs established by, or by order of, any governmental agency; and religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historic agencies.
- B. Signs indicating the address or name of a building up to two square feet for single family dwellings and six square feet for all other uses.
- C. One "For Sale" or "For Rent" sign is allowed per street frontage. Such signs must be removed within 7 days after the sale, rental, or lease has been accomplished.
- D. "For Sale" or "For Rent" signs on lots containing a single-family dwelling unit or zoned for single-family residential development may not exceed 9 square feet in area.
- E. "For Sale" or "For Rent" signs on lots containing principal uses other than single family dwellings may not exceed the greater of 32 square feet or 0.25 square feet of sign area per each linear foot of street frontage for the first 150 feet of street frontage and 0.10 square feet of sign area for each linear foot of street

- (4) Maximum Lot Coverage: 60 Percent
- (5) Maximum Impervious Surface Coverage: 75 Percent
- (6) Minimum Lot Area: 7,500 square feet
- (7) Minimum Lot Width: 50 feet
- (8) Maximum Building Height: 40 feet or two and one half stories, whichever is less.

§ 265-406 RFO RIVERFRONT OVERLAY

- A. Purpose. The RFO District is designed to encourage innovative development in conjunction with complementary protection of the Borough's natural features and assets, including its riverfront and wooded hillsides.
- B. Applicability of the Districts. The RFO District shall be designated as an overlay district. Therefore, the district standards, whether greater or lesser than those of the underlying base zoning district, shall prevail when uses expressly authorized within the overlay are constructed, operated, and maintained.
- C. The following uses shall be authorized as permitted uses within the RFO District:
 - (1) All permitted and conditional uses in the R-1 Single Family District.
 - (2) Administrative and Professional Offices
 - (3) Banquet Hall
 - (4) Entertainment Recreation Facilities, Indoor
 - (5) Personal Care Home
 - (6) School, Private
 - (7) Group Residential Facility
 - (8) Planned Commerce Park Model
 - (9) Hospital or Clinic
 - (10) Transitional Residential Facility
 - (11) Animal Hospital/Clinic
- D. Basic Dimensional Standards. The following shall apply to all uses authorized
 - (1) Minimum Front Yard: 75 Feet
 - (2) Minimum Side Yard: 60 Feet
 - (3) Minimum Rear Yard: 75 Feet
 - (4) Maximum Lot Coverage: 40 Percent
 - (5) Maximum Impervious Surface Coverage: 60 Percent



- (6) Minimum Lot Area: 40,000 square feet
 - (7) Minimum Lot Width: 150 feet
- E. Dimensional Standards for authorized conditional uses. The Planned Commercial Park Model shall be subject to the standards enumerated in Section 265-504.
- (1) Minimum Front Yard: 75 Feet
 - (2) Minimum Side Yard: 75 Feet
 - (3) Minimum Rear Yard: 75 Feet
 - (4) All yards shall increase by five feet for every thousand square feet of gross floor area beyond five thousand square feet of total gross floor area of buildings on the lot.
 - (5) Maximum Lot Coverage: 35 Percent
 - (6) Maximum Impervious Surface Coverage: 50 Percent
 - (7) Minimum Lot Area: 80,000 square feet
 - (8) Minimum Lot Width: 50 feet
 - (9) Maximum Building Height: 45 feet or three stories, whichever is less.

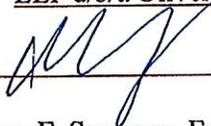
§ 265-407 FLOODPLAIN DISTRICTS

- A. Purposes. The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief and the impairment of the tax base by:
- (1) Regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.
 - (2) Restricting or prohibiting certain uses, activities and development from locating within areas subject to flooding.
 - (3) Requiring all those uses, activities and developments that do occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.
 - (4) Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.
- B. Applicability.
- (1) These provisions shall apply to all lands within the jurisdiction of the Borough of Tarentum and shown as being located within the boundaries of the

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Appellant, America First Enterprises,
LLP d/b/a Oliver Outdoor

Signature:  _____

Name: Maureen E. Sweeney, Esquire

Attorney No. (if applicable): 70497

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF APPEAL** was served this 27th day of **June, 2019**, upon the following, by depositing the same in the United States Mail, First Class, Postage Pre-Paid:

Borough of Tarentum
Zoning Hearing Board
318 E. Second Ave
Tarentum, PA 15084

Gerald G. DeAngelis, Esq.
512 Market St
Freeport, PA 16229-1245
(Solicitor for Tarentum Zoning Hearing Board)